IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1122 of 2001
in
SPECIAL CIVIL APPLICATION No 3290 of 2000

For Approval and Signature:

HON'BLE MR.JUSTICE R.S.GARG
and
HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DEPUTY GENERAL MANAGER
Versus
RAMESHBHAI ATMARAM VAGHELA

Appearance:
1. LETTERS PATENT APPEAL No. 1122 of 2001
MR RAJNI MEHTA, Sr. Counsel for MR AJAY R MEHTA for Appellant
MR TR MISHRA for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE R.S.GARG
and
HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 16/03/2005

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE R.S.GARG)

#. Mr. Rajni Mehta, Senior Counsel with Mr. Ajay Mehta for the appellants. Mr. T.R. Mishra, leaned counsel for the respondents.

#. Parties are finally heard. Learned counsel for the appellants at the very outset, submitted that the judgment dated 11.4.2001 passed by the learned Single Judge in Special Civil Application No. 3290 of 2000 basically is based upon interpretation of the notification dated 9.12.'76 issued by the Central Government under Section 10(1) of the Contract Labour (Regulation and Abolition) Act, 1970 and the judgment also places reliance upon the judgment of the Supreme Court in the matters of Gujarat Electricity Board, Thermal Power Station, Ukai, Gujarat Vs. Hind Mazdoor Sabha and others, (1995) 5 CC 27, and Air India Statutory Corporation and others Vs. United Labour Union and others, (1997) 7 SCC 377. He submitted that the judgment by the learned Single Judge was delivered on 11.4.2001, but thereafter, Constitution Bench of the Supreme Court in the matter of Steel Authority of India Ltd. and others Vs. National Union Waterfront Workers and others, (2001) 7 SCC page 1, decided on 30th August, 2001, has quashed the said notification and has also overruled the said two judgments, and consequently, the judgment delivered by the learned Single Judge at this stage, would become foundationless. He also submits that though the judgment in the matter of Steel Authority of India Ltd. (supra) says that the said notification and the two judgments are quashed/overruled prospectively, but in the present matter, the appeal being continuation of the suit, the judgment would apply.

#. Mr. T.R. Mishra, learned counsel for the respondents wanted to support the judgment on some or more grounds. He submitted inter alia, that on certain other facts and issues, the judgment delivered by the learned Single Judge can be maintained.

#. After hearing him for some time, we must observe that the questions which are raised by him were not raised before the learned Single and there appears to be no consideration of those issues.

#. In the fitness of things, we must observe that the judgment dated 11.4.2001 cannot be allowed to stand in light of the judgment of the Supreme Court in the matter of Steel Authority of India Ltd. (supra). Accordingly, we set aside the said judgment with an observation that

on 11.4.2001, the said judgment was a valid judgment, but in view of the subsequent judgment of the Supreme Court, it cannot be allowed to stand. The matter is remitted to the learned Single Judge with a request to him to give an opportunity of hearing to the parties and decide the matter afresh taking into consideration the observations made by the Supreme Court in the matter of Steel Authority of India Ltd. (supra). The appeal to the extent indicated above and the observations made aforesaid, is allowed. It is however, directed that the benefits flowing from Section 17-B of the Industrial Disputes Act, 1947, shall be continued in favour of the workmen till the final orders by the learned Single Judge.

[R.S. GARG, J.]

[RAVI R. TRIPATHI, J.]
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